IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5932 OF 2005

Jeevan Deepak Waghmare ...Applicant
vs.
The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.5934 OF 2005

Laxman Yashwant Kamble & Ors. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.Ranjit V. More for the Applicants
Mr.A.S.Gadkari,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 19,2005

P.C.:

1. Both the applications are by accused persons in the same case. An offence has been registered under sections. 302, 307, 452, 143, 147, 148, 149, 323 of Indian Penal Code. Investigation is completed and the charge sheet has been filed. The learned Advocate for the Applicants in both the Applications submitted that the version of the witnesses as regards the role played by the Applicants in these Applications is inconsistent. He submitted that there is no injury on the person of the deceased on vital part. He submitted that in the circumstances the Applicants are entitled to be enlarged on bail.

2. The learned A.P.P. has produced for my perusal P.M.Notes

and other material collected during the investigation. He submitted that a clear role has been ascribed to the Applicants. He pointed out that the Applicant No.1 in Criminal Application No.5934 of 2005 and the Applicant in Criminal Application No.5932 of 2005 have also assaulted the witness Ajesh and at least four injuries sustained by the said Ajesh are on the vital parts of the body and are grievous in nature. He, therefore, submitted that no case is made out for enlarging the Applicants on bail.

3. I have considered the submissions. In so far as the Applicant in Criminal Application No.5932 of 2005 is concerned, there is a consistent version of the witnesses Sheela and Ajesh. Both of them have stated that the said Applicant assaulted the deceased Jaganath by a knife on the back side. P.M.Notes show that there are two stab injuries in the renal region. There are two other injuries on the back of the deceased. The cause of death is haemorrhagic shock due to stab injuries. The injures are found on the back of the deceased consistent with the prosecution case. It cannot be said that the injuries are not on the vital part as there are two stab wounds on the renal region. The cause of death as mentioned in the P.M.Notes is on account of stab injuries sustained by the deceased. Witness Ajesh has also stated about assault made by the said Applicant Jeevan causing two injuries on his person. Therefore, there is sufficient

material at this stage to show complicity of the Applicant Jeevan in an offence of very serious nature of committing fatal attack on deceased Jaganath.

4. According to the version of the sister of the alleged injured person, Applicant No.1 in Criminal Application No.5934 of 2005 has allegedly assaulted Ajesh. However, the statement of said Ajesh shows that there is no allegation made against the Applicant No.1-Laxman as regards the assault on him. Moreover, all witnesses except Ajesh have stated that the Applicant No.1 was carrying gupti and witness Ajesh has stated that the Applicant No.1 was carrying a stick. The version of witness Ajesh does not support the prosecution case that the Applicant No.1 assaulted Ajesh by a gupti. Moreover, recovery of a gupti is at the instance of another co-accused. As far as Applicant No.2 Sunil is concerned, the daughter of the deceased has stated that the said Applicant assaulted deceased Jaganath with a sword on his head. In the subsequent statement, the daughter of deceased has not ascribed any role to the said Applicant as regards assault on the deceased Jagannath. It is pertinent to note that there is no head injury found on the person of the deceased. Column No.17 of P.M.Notes is silent about the injury on the head of the deceased. The other two Eye Witnesses have alleged that the Applicant No.2 assaulted the deceased with the help of stick. Thus, the prosecution case as far as Applicant No.2 is

concerned is inconsistent. Therefore, in my view the Applicants in Criminal Application No.5934 of 2005 are entitled to be enlarged on bail. Moreover, it is stated there are no criminal antecedents of the Applicants.

5. Hence I pass the following order :

i) Criminal Application No.5932 of 2005 is rejected.

i) The Applicants in Criminal Application No.5934 of 2005 shall be enlarged on bail in connection with C.R.No.66 of 2005 registered with Miraj City Police Station,Sangli subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) each with one or two local sureties each in the like amount.

ii) Till the conclusion of trial, the Applicants in Criminal Application No.5934 of 2005 will not enter the area falling within the jurisdiction of Miraj City Police Station.

iii) The order granting bail will be given effect only after the Applicants furnish to the Investigating Officer their detailed address of place of residence where they propose to stay after they are enlarged on bail.

iv) The Bail is granted subject to condition that the

Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Criminal Application No.5934 of 2005 is disposed of in above terms.

viii) Parties to act upon an authenticated copy of this order.

JUDGE